IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO.3945 OF 2001
IN
CRIMINAL APPLICATION NO.571 OF 2005

The State of Maharashtra .. Applicant.

v/s.

Pandurang Vithal Patil & ors. .. Respondents.

Smt.V.R.Bhonsale, Additional Prosecutor for the State.

Mr.S.V.Gavand for respondent Nos.1 to 3, 5 to 7 and 9 to 18.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 7th February, 2005

P.C.

Heard Smt.V.R.Bhonsale, the learned APP and Mr.S.V.Gavand, the learned counsel for respondent Nos.1 to 3, 5 to 7 and 9 to 18.

2. The Ist Additional Sessions Judge, Raigad, Alibag vide judgment dated 26.4.2001 acquitted the accused-respondent of the offences punishable under sections 147, 148, 307 read with section 149, 337 read with section 149, 427 read with section 149 of the IPC and also acquitted of the offence under section 25(1)(a) of the Indian Arms Act.

3. The application for certified copy was made on 22.5.2001. The certified copy was ready on 18.6.2001 and delivered to the office of the concerned Public Prosecutor on 22.6.2001. The concerned Public Prosecutor forwarded his opinion to the Law and Judiciary Department, Mantralaya, Mumbai on 24.8.2001. The Law and Judiciary Department considered the papers and vide resolution dated 9.9.2001 decided to challenge the judgment of acquittal in appeal and consequently, directed the Public Prosecutor, High Court, Appellate Side, Mumbai to file an appeal against the judgment of acquittal. The said Government resolution was received by the office of the Public Prosecutor, High Court, Appellate Side, Mumbai on 10.9.2001 and the criminal appeal against leave to appeal was preferred on 27.9.2001. The said criminal appeal has now been converted in criminal application for leave to appeal.

4. Though there is delay of 64 days in filing the criminal appeal (now criminal application for leave to appeal) but we find that the said delay did not occur due to any negligence or want of diligence on the part of the concerned persons. It needs no elaboration that in the matters relating to the State Government, various hands are involved and at

various stages the matter is scrutinised. In the matter like this, the State is not expected to explain day to day delay if that be so why not hour to hour and minute to minute. The application for condonation of delay has to be viewed with justice oriented approach and if sufficient cause is made out, the court has to keep it in mind that meritorious matter is not rejected on account of the delay.

5. We are satisfied that delay of 64 days is explained.

6. We, accordingly, condone the delay.

7. Criminal application stands disposed of.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)